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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/752,501

12/29/2000

Kireeti Kompella

Juniper-4 (JNP-0026)

9488

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7590

12/04/2006

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EXAMINER

JONES, PRENELL P

ART UNIT

PAPER NUMBER

2616

DATE MAILED: 12/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

58

Office Action Summary	Application No. 09/752,501	Applicant(s) KOMPELLA, KIREETI	
	Examiner Prenell P. Jones	Art Unit 2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,3,8-41,53-55,57,60,61,63,70-72 and 79-84 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2,3,8-19, 36-41, 53-55, 63, 71 and 79-84 is/are allowed.
- 6) ☒ Claim(s) 20-35,60,61 and 70 is/are rejected.
- 7) ☐ Claim(s) 72 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. <u>11/22/06</u> |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Arguments

1. Applicant's arguments with respect to claims 2, 3, 5, 6, 8-41, 53-55, 57, 60, 61, 63, 70-72 and 79-84 have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues that the cited prior art of Cao et al (US Pat 6,721,269) and Bertin et al (US Pat. 5,600,638) fail to teach a message carrying path determination constrains expressed in the form of a program including executable instructions.

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 29-33, 60 and 61 are rejected under 35 U.S.C. 101 because claim 29-33, 57, 60 and 61 recites an apparatus. It also appears to include executable instructions, which are Judiciary exception. Since there is no practical application recited by the claims, these claims are therefore non-statutory. See "interim guidelines." Section IV (B) and (C)

Claim 20-28 is rejected under 35 U.S.C. 101 because claim 20 recites an executable instruction not a computer executable instruction. Therefore, claims 20-28 are non-statutory.

Claim 34 and 35 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Applicant is claiming a computer-readable storage

medium having stored thereon a message, in which the message is non-functional descriptive material. Claim 34 and 35 are non-statutory.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claim 70 is rejected under 35 U.S.C. 102(e) as being anticipated by over Cao et al (US Pat 6,721,269).

Regarding claim 70, Cao discloses explicit routing wherein communicating between network nodes (LSRD, LSRE, LSRS and LSRC) messages associated with path determination is utilized, whereby explicit route is represented in a label-request message as a list or group of nodes, and constraint-based route is encoded as a series of ER-hops, label messages include

constraints, mapping messages that include constraints wherein operands are utilized/delegate constraint, and label-request message including path determination limitations such as peak rate, committed rate, service granularity are mapped among plurality of nodes in an attempt to fulfill constraints, nodes/LSR determines if it is adjacent to abstract node, if a node is not part of the abstract node, label request message completes evaluation and routes/forwards messages containing constraints to next hop/node/router (col. 8, line 4-67, a node to which constraint process is delegated and routed to next node via forwarding maps) described by a first ER-hop an error message is returned indicating "Bad initial ER-hop and Bad explicit routing TLV" error, router establish a plurality of partially distinct paths, ER-hops are loose hops, if next node is a strict ER-hop, then there is an error and it is represented by a "Bad strict node" error, (col. 8, line 20 thru col. 10, line 41) path parameters include, peak rate defines bandwidth, delay variations

Allowable Subject Matter

1. Claims 2, 3, 5, 6, 11, 8-28, 36-41, 54, 57, 55, 63, 71 and 79-84 are allowed over prior art.
2. Claims 72 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
3. The following is a statement of reasons for the indication of allowable subject matter:
Although the prior art discloses a communication system path determination by utilizing system constraints, they fail to teach or suggest with respect to claims 5, 6, 11, 20, 37, 38, 39, wherein the at least one network path determination constraint is expressed in the form of program including one or more executable instructions, with respect to claim 18, determine whether the node is a tail-end, head-end or intermediate node, if it is determined that the node is a tail-end

node, and at least one network path determination constraint has been satisfied, then signaling back to an upstream node of that path that the path is O.K., determining whether a strict-hop node is specified as a next node of an explicit path constraint, a loose-hop node is specified as a next node of an explicit path constraint or no node is specified as an explicit path constraint, if a strict-hop node is specified as a next node of an explicit path constraint, then applying each of the at least one network path determination constraint to an appropriate one of a link between the node and the strict-hop node, and the partial path defined, with respect to claim 36, if the tail-end node of the path is in a part of the network, the topology of which is not known by the node, then performing a constraint-based path determination to a next node selected from a group of nodes consisting of an area border node, an autonomous system gateway node to generate a partial path and forwarding the message carrying the at least one network path determination constraint to an adjacent downstream node on the partial path, with respect to claim 40, a traffic engineering database generated by the processing for generating wherein the path determination facility is further adapted to determine at least a part of a path based on contents of the traffic engineering database, at least one path constraint received from signaling facility, wherein the path determination facility cannot determine a complete constraint-based path to a specified tail-end node, then the path determination facility performs a constraint-based path determination to a next node selected from a group of nodes, with respect to claim 54 and 55, forwarding the message carrying the at least one network path determination constraint to an adjacent downstream node on the partial path, wherein the node is an intermediate node and wherein the act of performing a constraint-based path determination includes determining whether a link from the node to the next node specified in the first portion of the path satisfies the set of at least one constraint, and with respect to claim 72, path determination constraint is an executable instructions.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Prenell P. Jones whose telephone number is 571-272-3180. The examiner can normally be reached on 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2616

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Prenell P. Jones 

November 27, 2006


CHI PHAM
SUPERVISORY PATENT EXAMINER

11/27/06